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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

JAN 11 1993

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
Billed Party Preference)
for 0+ InterLATA Calls)
)
)

CC Docket No. 92-77

To: The Commission

PETITION FOR RECONSIDERATION

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SUMMARY

The Commission has concluded that

- AT&T misled consumers in mailing out CIID cards,
- CIID cards give AT&T a substantial competitive advantage,
- No other IXC can successfully issue CIID cards,
- AT&T's CIID cards impose substantial costs on its competitors and have confused and frustrated consumers.

In short, the record in this proceeding clearly demonstrates that the 0+ public domain proposal of the competitive carriers is necessary to protect the public interest. Although the Commission findings would have supported such a policy, the Order failed to adopt it. This erroneous failure to act requires reconsideration.

First, the Order erred in downplaying significance of 0+ public domain because it is only an "interim" measure on the road to billed party preference ("BPP"). Not only does that conclusion prejudice the pending BPP rulemaking, it ignores the clear record evidence that BPP implementation is at least four years away -- and probably longer. Thus, the consumer problems caused by permitting the continued combination of 0+ dialing and proprietary cards were erroneously minimized.

Second, the Order erred in analyzing the competitive problems as well. The Commission accepted at face value AT&T's threat to require access codes for CIID cards rather than submit to a 0+ public domain policy. In the process, the Order gave no weight to the competitive parity argument

of CompTel and others supporting 0+ public domain because AT&T would not let the CIID card remain a 0+ card. Beyond the lack of record evidence supporting AT&T's threat, however, the Order fails to acknowledge that even if AT&T did require access codes, that too would achieve competitive parity. As a result, the competitive benefits of 0+ public domain were not given sufficient weight.

Third, the Order suffers from internal inconsistency. The Order erroneously viewed access code proprietary cards as the equal of CIID cards for one purpose, but not for another. In both cases, the viewpoint was unfairly hostile to 0+ public domain.

Finally, all of these erroneous findings combined to skew the Commission's cost-benefit analysis against 0+ public domain. Moreover, the cost/benefit analysis itself was incorrectly applied. The Order's cost/benefit analysis of 0+ public domain was not compared to the cost/benefit ratio of other possible solutions, including the one adopted. Had such a comparison been made, 0+ public domain would have been shown to be the only viable solution.

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¹ Billed Party Preference for 0+ InterLATA Calls, Report and Order and Request for Supplemental Comment, CC Docket No. 92-77, Phase 1, FCC 92-465 (Nov. 6, 1992) (hereinafter "Order"). Public Notice of the Order was published at 57 Fed. Reg. 58806 (Dec. 11, 1992).

0+ public domain proposal relative to other solutions considered by the Commission.

Background

The FCC's inquiry into AT&T's CIID card² began when CompTel and 19 individual operator service companies jointly filed an Emergency Motion in docket 91-115 concerning AT&T's introduction of its new CIID calling card.³ The Emergency Motion described the direct and immediate harms to operator services competitors (OSPs) and to competition in operator services presubscription engendered by AT&T's replacement of LEC line-based calling cards with its proprietary CIID card. Through a combination of misleading statements in its calling card marketing materials and instructions to users to place calls by dialing "0" plus the called number, AT&T's actions wrongly induced customers to destroy LEC-issued cards and use

² "CIID" is an acronym for Card Issuer Identifier cards, which is a card format developed by Bellcore in which the first 6 digits of the card are unique to each carrier. AT&T's CIID card is a proprietary card because AT&T does not share with other IXCs the information about the customer's account necessary to validate a card at the time of the call and to bill for completed calls.

³ CompTel, et al., Emergency Motion For An Interim Order Requiring AT&T to Cease Further Distribution of "Proprietary" CIID Cards and Permit Validation and Billing of Existing Cards Pending a Final Decision in This Docket, CC Docket No. 91-115 (filed Dec. 20, 1991). Docket 91-115 was an inquiry into calling card practices relating to LEC-issued shared calling cards, referred to as LEC joint use cards. AT&T's old line-number based card is an example of a LEC joint use card.

the CIID card. As a result, calls were diverted from AT&T's OSP competitors and those competitors' costs were increased by a large number of unbillable CIID attempts made on their networks.⁴ These actions, the Motion demonstrated, caused much consumer confusion and inconvenience, and threatened to increase AT&T's already dominant market position and remonopolize the 0+ market.

The comments on CompTel's motion revealed almost universal condemnation of AT&T's unprecedented card rollout. IXC's and OSPs, large and small, noted the confusion and misdirected anger that users of AT&T's new calling card felt when they attempted to use their "replacement" card in the same manner that their old card had been used. These parties noted that consumers would often blame the OSP for "refusing" to accept their card, frequently voicing their objections to the premises owner providing the telephone as well. These circumstances had a direct and significant negative impact on the OSPs' revenues, their costs, and their ability to obtain and retain aggregator presubscription contracts.

Many local exchange carriers (LECs) also documented the consumer confusion surrounding the CIID card. For example, Bell Atlantic stated that it had received "numerous questions

⁴ Because AT&T withholds information necessary to determine whether the card is a valid card, OSPs cannot accept the CIID card in payment for a call. In the meantime, the OSP incurs costs for access to the local network, operator handling, and, in many cases, an unsuccessful validation query.

and complaints from consumers that AT&T sales representatives have told them that they would no longer be able to use their Bell Atlantic calling card to charge AT&T calls."⁵ Perhaps Ameritech summarized it best when it stated, "AT&T's behavior as described [in response to CompTel's Emergency Motion] has gone beyond the legitimate promoting of a competitive service but instead has preyed upon consumer confusion over calling cards."⁶

The root cause of the problem was AT&T's combination of a proprietary calling card with a form of access -- 0+ dialing -- heretofore reserved for non-proprietary calling. The record demonstrated that all other carriers issuing calling cards relied upon access codes (either 800, 950, or 10XXX) for their proprietary cards. Indeed, only the dominant carrier -- one that is the presubscribed carrier at the majority of locations -- could successfully issue a proprietary 0+ card.⁷ The solution advocated by CompTel and the commenters was simple: the Commission must act quickly to preserve consumers' ability to utilize the 0+ dialing

⁵ Comments of Bell Atlantic at 1-2, CC Docket No. 91-115 (filed February 10, 1992).

⁶ Reply Comments of the Ameritech Operating Companies at 2-3, CC Docket No. 91-115 (filed March 11, 1992).

⁷ This is the case because consumers would quickly discard a 0+ card that was invalid at the majority of locations where they tried to use it. Only AT&T could guarantee that at a substantial majority of locations the card would work as promised.

method and their expectations regarding proprietary cards.⁸ The solution, which came to be known as "0+ public domain," asked the Commission to preserve the "bright line" that had developed in the market between "universal" cards, usable by dialing 0+ and capable of being validated by all other OSPs, and "proprietary" cards, which use carrier-specific access codes to route the call to the carrier that issued the card. This would be enforced by requiring any carrier that issued a card relying on 0+ access as the dialing method to make available to OSPs the information necessary to validate and bill calls made using the card.

In May, the Commission initiated the present docket to more fully consider the 0+ public domain proposal.⁹ The comments filed in response to the Emergency Motion were incorporated into the new docket¹⁰ and the Commission asked for further comment on how the plan would work and the impact its consideration of billed party preference might have on the proposal. In the subsequent round of comments, the parties again confirmed the harmful effects of AT&T's CIID cards and the consumer benefits that would flow from the

⁸ This plan was first proposed by MCI in an earlier FCC docket. See Comments of MCI Telecommunications Corporation, CC Docket 91-35 (filed April 12, 1991); Reply Comments of MCI, CC Docket 91-35 (filed April 26, 1991).

⁹ Billed Party Preference for 0+ InterLATA Calls, Notice of Proposed Rulemaking, CC Docket No. 92-77, 7 FCC Rcd 3027 (1992) (hereinafter "92-77 NPRM").

¹⁰ Id. at 3033 n.41.

preservation of 0+ access as a universal method of reaching multiple carriers regardless of the billing method selected by the caller.

The CIID Card Order

In November, the Commission released its decision on the 0+ public domain proposal. The Order recognizes the lack of "parity" in the operator services market created by AT&T's dominant share of operator services minutes and aggregator presubscription agreements¹¹ and concludes that this inequality poses a threat to competition in operator services.¹² In addition, the Order recognizes the consumer confusion and frustration created by AT&T's issuance of a proprietary 0+ card.¹³ As a result of AT&T's misleading statements and inadequate dialing instructions, large numbers of consumers switched from the LEC card to the AT&T CIID card, but continued to indiscriminately dial 0+ at aggregator locations. These misdirected attempts, the Order concludes, increase OSPs' costs and subject them to customer anger and condemnation.¹⁴

The Order rejects the 0+ public domain solution to this problem, however. Relying on AT&T's threat that if 0+ public

¹¹ Order at ¶20.

¹² Id.

¹³ Id. at ¶25.

¹⁴ Id.

domain were adopted it would restrict its CIID card to access code dialing, the Order concludes that the costs of the proposal outweigh its benefits.¹⁵ Instead, the Order merely directs AT&T to modify its dialing instructions and initiates an examination into a compensation mechanism for OSPs receiving misdirected CIID calls.¹⁶ The Order offers billed party preference as a potential solution to the competitive problems it identified, but, recognizing that the billed party preference concept has not been fully examined, the Order states that the merits of 0+ public domain may be reassessed after its consideration of billed party preference.¹⁷

Argument

I. The Record Before the Commission Clearly Demonstrates that 0+ Public Domain Is Necessary to Address the Competitive Harms Created by the AT&T CIID Card

Prior to AT&T's introduction of the CIID card, the operator services industry operated according to an unstated principle of 0+ in the public domain. The LECs and AT&T issued cards that were used by dialing "0" plus the called number. As a result of court and Commission orders, these

¹⁵ Id. at ¶45.

¹⁶ Id. at ¶¶ 56, 64.

¹⁷ Id. at ¶ 50.

cards could be validated and billed by any carrier and therefore could be used on a 0+ basis at any phone, regardless of the carrier presubscribed to the phone. All other IXCs who issued calling cards (including MCI and Sprint) issued proprietary cards to their customers. These cards could be validated and billed only by the issuing IXC and therefore the IXC instructed its customers first to dial its carrier-specific access code in order to place a call using the card.¹⁸

When AT&T introduced its CIID card, however, it violated this industry norm. AT&T chose to create a proprietary card by withholding validation information from other IXCs, but also instructed its cardholders to place their calls by dialing "0" plus the called number. Understandably, consumers became frustrated and confused when this new card did not work according to the expectations they had developed through their years of previous experience. Equally understandable was the increased cost imposed upon OSP competitors by AT&T's actions.

The Commission's Order recognized these harms and the competitive problems created by AT&T's introduction of the CIID card, but it failed to take the steps necessary to address them. Instead, the Commission took a few nominal

¹⁸ The use of access codes assures that the caller can quickly and easily place his call and prevents the instance of other IXCs receiving call attempts which they cannot accept.

"interim" steps and promised only to consider a different alternative (billed party preference), offering the hope that, possibly, implementation of billed party preference would counteract the harms created by the CIID card. Accordingly, the Order is arbitrary and capricious and contrary to the record before the Commission.

A. AT&T's CIID Card Rollout Harmed Consumers and Competition in Operator Services

There can be little dispute that the introduction of the CIID card was followed by a massive increase in confusion among calling card users. As the Order found, "Customers are understandably frustrated when their calls, placed in accordance with the dialing instructions AT&T provides for its CIID cards, cannot be completed as dialed."¹⁹ In a separate letter, the Commission admonished AT&T for marketing practices which, in its "reference to 'government requirements' in its literature [as the reason for the new card] would be understandably confusing to most of the literature's intended readers."²⁰ Comments from the Bell

¹⁹ Order at ¶ 25.

²⁰ Letter from Donna Searcy, FCC, to Robert Allen, AT&T, FCC 92-490, at p. 3 (Nov. 3, 1992).

Operating Companies also indicated substantial customer confusion resulting from AT&T's actions.²¹

Similarly, it is clear that the combination of a proprietary card and of "0+" dialing for the CIID card harmed OSPs and the competitive marketplace. As the Order concluded, "[the customer's] frustration [at not being able to place a call is] misdirected at the OSP [and] result[s] in loss of customer good will for the OSP."²² Further, some aggregators "are terminating their arrangements with other OSPs and subscribing their lines to AT&T at least in part because of the replacement of the AT&T joint use card with the AT&T CIID card."²³ Finally, the Order found an "immediate competitive problem" in the fact that "[AT&T's] competitors are forced to devote their facilities to uncompletable and therefore unbillable CIID card calls. Thus, the costs incurred in processing such calls cannot be recovered from those causing the costs to be incurred."²⁴

The Order also makes clear that the problem of a proprietary 0+ calling card like AT&T's CIID card arises from

²¹ See, e.g., Comments of Bell Atlantic at 1-2, CC Docket No. 91-115 (filed February 10, 1992); Comments of Southwestern Bell Telephone Company at 6-7, CC Docket No. 91-115 (filed February 10, 1992); Comments of Pacific Bell and Nevada Bell at 2, CC Docket No. 91-115 (filed February 10, 1992).

²² Order at ¶25.

²³ Order at ¶ 20.

²⁴ Order at ¶ 25 (footnote omitted).

AT&T's dominant position in the operator services market. By AT&T's own admission, it is the presubscribed carrier for at least 68 percent of aggregator phones.²⁵ The result is that, "as a practical matter, only AT&T is able to issue a proprietary card that is usable with 0+ access at a sufficient number of public phones to make its card marketable and workable as a 0+ proprietary card."²⁶ Moreover, this disparity between AT&T and other OSPs "may grow larger as AT&T increasingly migrates customers to proprietary cards that other OSPs cannot validate."²⁷

B. Despite These Clear Harms, The Order Fails to Adopt an Adequate Solution

Even though the Commission agreed with CompTel's assessment of the problems created by AT&T's CIID card, it did not take actions consistent with its findings. Rather than reestablish the principle of "0+ in the public domain" prevalent in the industry prior to the CIID card, the Order directs only slight modifications to AT&T's dialing

²⁵ Order at ¶ 14, n. 24. Other estimates place AT&T's market share slightly higher. CompTel 92-77, Phase 1 Comments at 5 (filed June 2, 1992) (estimating AT&T's share at 75%); Sprint 92-77 Phase 1 Comments at 2 (filed June 2, 1992) (estimating AT&T's share at 80%).

²⁶ Order at ¶ 20.

²⁷ Id.

instructions²⁸ and offers two promises: first, that the Commission will examine a compensation mechanism for CIID card calls misdirected to OSPs and, second, that the Commission's possible adoption of billed party preference might alleviate the problems experienced with the CIID card.²⁹ None of these actions is a substitute for a solution to the problems identified in this docket and acknowledged in the Order.

First, the "promise" of billed party preference is inadequate. The Commission has not yet considered the merits of billed party preference; it has only tentatively concluded that its "concept" is appealing.³⁰ Moreover, the comments on the proposal reveal many serious problems which must be evaluated.³¹ The record and the Order demonstrated concrete harms currently being experienced by consumers and OSPs. These harms required action, not a promise to consider some other proposal at an unspecified future date.

²⁸ Rather than telling customers to dial 0+ and listen for the "bong" tone, AT&T is required to instruct callers to look for the telephone signage before placing a 0+ call. Order at ¶ 56. The Order does not, however, alter the 0+ nature of AT&T's proprietary card.

²⁹ Order at ¶¶ 50, 64.

³⁰ 92-77 NPRM, 7 FCC Rcd at 3029.

³¹ These problems include drastically increased call setup times, an uncertain application to special access arrangements, and the re-creation of a LEC monopoly. See generally CompTel 92-77 Phase 2 Comments and Reply Comments (filed July 7, 1992 and August 27, 1992).

In any event, even a prompt decision to adopt billed party preference by the Commission would not address the immediate and irreparable harm being experienced by OSPs. This is because even the most optimistic estimates indicate that billed party preference could not be implemented for at least four years after a decision by the Commission.³²

Thus, the earliest any impact of billed party preference could be felt is 1996. More likely, billed party preference, if adopted today, could not become a reality until after the year 2000. For this reason, the Commission erred in characterizing the 0+ public domain proposal as an "interim" step pending the prompt implementation of billed party preference.

Consumers and OSPs would have to deal with the effects of the AT&T CIID card for at least four and possibly up to ten years even if billed party preference were chosen to be the solution. Clearly then, 0+ public domain should not have been evaluated as a short-term temporary solution, but rather should have been assessed as the reinstatement of the universal availability of 0+ cards for validation and billing for the foreseeable future. By characterizing 0+ public

³² Bell Atlantic 92-77, Phase 2 Comments at 2 (estimating implementation in 1996 "at the earliest") (filed July 7, 1992); GTE 92-77, Phase 2 Comments at 8 (estimating implementation four years after FCC decision) (filed July 7, 1992). For smaller LECs, no clear implementation time frame is available. OPATSCO 92-77, Phase 2 Comments at 2 (billed party preference could be an "insurmountable investment" for small LECs in the near term) (filed July 7, 1992).

domain as interim, the Order greatly underestimates the record evidence of ongoing harm and ignores aspects of the proposal that would develop over time. The latter include the potential ability of IXCs to selectively accept proprietary card calls dialed with the 10XXX access code while rejecting 0+ calls using the card and the benefits of consumers' increased experience with dial around options and other TOCSIA-related regulations. These aspects would greatly affect the relative costs and benefits of 0+ public domain.

Second, the Order does nothing to address the crux of the problem: AT&T's combination of a proprietary calling card with an access method -- 0+ dialing -- inconsistent with proprietary cards.³³ Frequently, the Order discusses in its assessment of the CIID card the value of proprietary calling cards in general.³⁴ The Order also compares AT&T's CIID card

³³ The Order also proposed adoption of a mechanism to compensate OSPs for misdirected CIID call attempts. At the Commission's suggestion, the parties are exploring an agreed-upon compensation formula, but no agreement has been reached. In any event, even if a compensation formula is adopted, it would address only a small portion of the problem. Compensation can reimburse OSPs for direct costs incurred in receiving misdirected calls, but it does not prevent consumer inconvenience from misdialing calls, nor does it redirect the consumer's misplaced anger and frustration to the entity causing this frustration. Further compensation does not address the competitive inequity created by AT&T being the only IXC with the proprietary 0+ card.

³⁴ See e.g., Order at ¶ 21 ("IXC proprietary cards are one way to serve the important public interest of permitting consumer choice in the presubscription environment"); *Id.* at (continued...)

to the proprietary cards of MCI and Sprint, noting that, collectively, MCI and Sprint have issued more cards than AT&T.³⁵ AT&T's CIID card is fundamentally different from all other proprietary cards, however, because it alone relies upon 0+ access by its cardholders. It is this reliance on 0+ access -- the access method for non-proprietary cards -- that causes OSPs to receive large numbers of unbillable CIID card attempts and that confuses cardholders when they attempt to use the card.³⁶ Yet the Order evaluates the regulatory aspects of the CIID card as if it were simply another proprietary IXC card. Again, this factual error causes the analysis of the Order to misstate important record evidence.

Ironically, the major reason given by the Commission for not adopting the 0+ public domain proposal is AT&T's threat that it would use access codes for its CIID card if the proposal were adopted -- that is, under 0+ public domain, AT&T's proprietary card would be used like the cards of MCI, Sprint, and all other IXCs issuing proprietary cards. The

³⁴(...continued)

¶ 47 ("IXC proprietary cards are a useful vehicle for permitting consumer choice of carrier").

³⁵ Id. at ¶ 21.

³⁶ Indeed, the record shows that the instance of misdirected attempts by MCI or Sprint proprietary card holders is negligible because these carriers educate their customers to use the card in conjunction with an access code. APCC 92-77, Phase 1 Reply Comments at 6 n.5 (Sprint does not promote 0+ access even though it is technically possible) (filed June 17, 1992).

Commission's claim that this "inconvenience" is unacceptable to consumers is belied by the vast majority of industry experience with proprietary cards. Moreover, the record shows no evidence -- other than AT&T's stated threats -- that it would actually act on the threat and convert its CIID cards to access code dialing. Nor does the Order explain how access dialing can at the same time serve as (1) a terrible inconvenience too burdensome to impose on AT&T's CIID card users and (2) a highly convenient and successful form of competitive card when used by every other IXC.

II. The Commission's Cost/Benefit Analysis of the 0+ Public Domain Proposal Is Erroneous

The Order rejects 0+ public domain because, "we conclude that the customer inconvenience, frustration and potential cost it would impose would outweigh the benefits."³⁷ The primary factors in the Commission's cost/benefit analysis were the following:

- Under 0+ public domain, CIID cardholders would be "inconvenienced" by having to dial an access code if AT&T elected to keep the CIID card proprietary.³⁸
- The "major competitive benefit" of 0+ public domain -- "increased parity in the operator services market" -- would not be achieved because AT&T stated it would keep the CIID card proprietary.³⁹

³⁷ Order at ¶ 44.

³⁸ Id. at ¶ 45.

³⁹ Id. at ¶ 46. In fact, a move by AT&T to access code dialing is precisely what is needed to bring parity to the operator services marketplace.

- Misdirected 0+ CIID call attempts can be addressed by consumer education and, possibly, a compensation formula for OSPs.⁴⁰

These findings, however, are erroneous and should be reversed on reconsideration.

First, by relying on AT&T's claim concerning its future actions under a 0+ public domain requirement, the Order skews the costs and benefits of 0+ public domain enormously. By the Commission's own admission, it gave no weight to the "major competitive benefit" of 0+ public domain based solely on AT&T's self-serving assertion.⁴¹ It also increased substantially the cost of the proposal based solely on AT&T's threat to "inconvenience" its own customers by requiring access codes. However, AT&T's own speculations about its possible reaction to the Commission action under consideration should not be enough, by itself, to alter the relative weight of costs and benefits of the proposal before the Commission.⁴² Moreover, it is inappropriate from a

⁴⁰ Id.

⁴¹ Order at ¶ 46.

⁴² AT&T's reaction would be influenced by several factors, which cannot be determined in advance of the Commission's action. First, AT&T's choice would be influenced by the relative weight its customers place on the value of 0+ dialing versus the value of being "guaranteed" access to AT&T. Also, the choice would depend upon the availability and consumer acceptance of whatever access code arrangement is permitted by the Commission. Further, it is not known what impact the pledge of several OSPs to charge no more than AT&T's rates for CIID card calls would have on the preferences of CIID card consumers. See Letter from Danny E. (continued...)

regulatory perspective for the Commission to permit its evaluation of the public interest to be dominated in this way by the very entity that is supposed to be under the oversight of the regulator.

Second, the cost-benefit analysis of the Order was skewed by improperly considering the "inconvenience" of using an access code for the CIID card as a cost. Reliance on access codes for the proprietary CIID card would increase parity in the operator services market by placing the card on equal footing with the proprietary cards of MCI, Sprint and other IXCs who issue calling cards. The record clearly demonstrates that a proprietary 0+ card is available under current conditions only to the dominant carrier in the market. Thus, the existence of the card is itself a sign of the disparity present in the market and removal of the 0+ element from the CIID card would help the creation of parity in the market. Moreover, a clear distinction between access methods for proprietary and non-proprietary cards lessens consumer confusion and advances the public interest.⁴³ Thus,

⁴²(...continued)
Adams on behalf of Zero Plus Dialing, Inc. to Cheryl Tritt, Chief, Common Carrier Bureau (ex parte) (filed August 11, 1992); Letter from CompTel, et al. to Cheryl Tritt, Chief, Common Carrier Bureau (ex parte) (filed September 18, 1992).

⁴³ CompTel 92-77 Phase 1 Comments at 13. Just as consumers distinguish between local and "long distance" calls by the need to dial "1" before the called number, so will consumers learn to distinguish non-proprietary and proprietary cards by the need to dial an access code.

by improperly classifying actions resulting in increased parity as a cost, the Order inflates the costs and artificially decreases the benefits of the 0+ public domain proposal.

A third flaw with the Commission's cost/benefit analysis is that it fails to assess the costs and benefits of the 0+ public domain proposal in conjunction with the actions taken in the Order. That is, the Order assumed that the choice was either additional consumer education concerning dialing procedures, coupled with possible compensation for OSPs, or 0+ public domain. These alternatives are not mutually exclusive, however, and the Commission should have assessed the merits of 0+ public domain as augmented by consumer education and compensation. In particular, industry experience suggests that with accurate and understandable dialing instructions, consumers have little problem using access codes and proprietary cards. Thus, even assuming AT&T migrated its customers to access codes, a consumer education campaign similar to that mandated by the Commission would lessen the alleged consumer "inconvenience."⁴⁴ The Order, however, fails even to assess the costs and benefits in this way.

⁴⁴ Adoption of a compensation mechanism would provide the incentive to ensure that, in the event it elects to keep its CIID card proprietary, AT&T would properly educate its customers not to dial 0+.

Finally, in evaluating alternatives to the 0+ public domain proposal, the Commission has an obligation to assess the relative costs and benefits of the proposals. An alternative to 0+ public domain should be adopted only if the cost/benefit analysis of the alternative is more favorable to the public interest than the cost/benefit analysis of 0+ public domain. CompTel respectfully submits that the Commission has failed to demonstrate that the actions it took are, by themselves, more favorable to the public interest than 0+ public domain when viewed in this way. To the contrary, it appears that the Commission's actions have significant unexamined costs due to its failure to take action that addresses in a meaningful way the unique nature of the CIID card as the only calling card combining proprietary validation and billing policies with 0+ dialing. Most of the significant harms which the Order identified will continue unabated. The cost/benefit analysis of the plan adopted by the Order thus is significantly less favorable to the public interest than 0+ in the public domain. The Order, however, never made such a comparison.

Conclusion

For the foregoing reasons, the Commission should reconsider its Order in Phase 1 of this docket. The Commission should adopt the 0+ public domain proposal, with or without the various refinements presented in the docket, in order to alleviate the harms found in the Order.

Respectfully submitted,

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